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10/771,701	02/04/2004	Craig A. Finseth	PD-990198A	3796

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EXAMINER

INGVOLDSTAD, BENNETT

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2427

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/771,701	Applicant(s) FINSETH ET AL.	
	Examiner Bennett Ingvaldstad	Art Unit 2427	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-47, 49-58, 60-69 and 71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-47, 49-58, 60-69 and 71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 2 April 2009 have been fully considered. Applicant traverses the art rejections, particularly arguing against the Boyer and Kahl combination as applied to independent claim 30. Applicant first notes that neither Boyer nor Kahl "shows the use of a calendar to show the results of a *search*" as claimed. Remarks at 15. While the examiner agrees that neither reference individually teaches the claimed invention, the examiner still maintains that Boyer's teaching and Kahl's teaching are combinable to arrive at the claimed invention. Boyer teaches searching for a subset of program (event) listings to be displayed with an interactive calendar. Fig. 22. Kahl teaches displaying program indicators on an interactive calendar to indicate the dates on which a subset of event listings occur. Kahl also conducts a "search" by selecting a range of dates for the event listings; by selecting the "December 1989" calendar as in Fig. 2, only the subset of listings occurring in December 1989 are displayed. Thus the combination yields the display of a subset of program listings obtained via a search (by Boyer) and program indicators for each listing of the subset meeting the search criteria (by Kahl), arriving at the claimed invention.

Applicant next argues that Kahl is not pertinent art to the claims or to a combination with Boyer. Remarks at 16, 17. The examiner disagrees and argues that although Kahl is a personal calendaring system in contrast to Boyer's program guide, Boyer and Kahl have a common field of endeavor, namely, that of displaying a calendar

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to assist in viewing and selecting scheduled events. Therefore, techniques applied to Kahl's interactive calendar are applicable to Boyer's interactive calendar.

Therefore, Applicant's arguments are found unpersuasive and the previous rejections are maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-32, 34, 37, 40-42, 44, 47, 51-53, 55, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625).

Regarding claim 30, Boyer discloses an electronic program guide for providing information regarding a plurality of broadcast media programs comprising:

a listing of media program representations that represent a first subset of the plurality media programs (listings subsets on right portion of screen [Figs 16-22]), the first subset of media programs being obtained by a search of the plurality of broadcast media programs (Fig. 22: search results); and

a calendar image (calendar 232 [Fig 16]) displayed separate from and with the listing of media program representations, the calendar image including a plurality of dates [Fig 16];

wherein the calendar image includes a selection indicator, the selection indicator movable within the calendar image for selecting one of the plurality of dates on the calendar image [0103].

Boyer does not further disclose:

a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which only the first subset of media programs will be broadcast.

Kahl discloses a system for displaying a subset of events on a calendar image (eg, the subset of events occurring in December 1989 – see Fig 2), the image containing a plurality of "busy bar" indicators, each indicator overlaid on one or more dates, thereby providing an indication of the dates corresponding to the subset of listed events [col. 2, l. 59-67].

The particular use of a known technique to improve similar devices in the same way is considered to be obvious to one having ordinary skill in the art. Therefore it would have been obvious to add Kahl's "busy bar" program indicators as an overlay on the calendar dates to provide indications of a subset of program events scheduled for a specific time period. It would further have been obvious for the event indicators to have been correlated to "only" the first subset of events obtained via Boyer's search for the

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purpose of further narrowing down the displayed subset of event listings using various criteria (eg, the “Actor=Gibson” criterion – see Boyer Fig. 22).

Regarding claim 40, Boyer discloses an electronic program guide receiving system that receives and generates a display of television content and program guide data, the system comprising:

- a receiver for receiving the program guide data and the television content (set top box [Fig 1]);

- a memory for storing the received program guide data (for storing program guide data downloaded from web server [Fig 1]); and

- a display generator for generating a first display screen based on the received program guide data (for outputting to television 54 [Fig 1]),

- a listing of media program representations and a calendar image displayed separate from and with the listing of media program representations [Fig 16], the calendar image including a plurality of dates and a selection indicator, the selection indicator movable within the calendar image, the selection indicator for selecting one of the plurality of dates on the calendar image and a time [0103], the listing of media program representations representing a plurality of media programs that are being broadcast on the selected date and time;

the listing of media program representations represents a first subset of the plurality of media programs obtained by a search of the plurality of the program guide data (Boyer, Figs 21, 22).

Boyer does not further disclose that the selection indicator is movable within dates on the calendar image to select a particular time ... and the calendar image further includes a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which only the first subset of the plurality of media programs will be broadcast.

Kahl discloses a system for displaying events on a calendar image, the image containing a plurality of "busy bar" indicators, each indicator overlaid on one or more dates, thereby providing an indication of the dates corresponding to listed events [col. 2, l. 59-67]. Multiple indicators are stacked in a single date so that a cursor is movable within the date to select the various indicators [col. 3, l. 1-5].

The particular use of a known technique to improve similar devices in the same way is considered to be obvious to one having ordinary skill in the art. Therefore it would have been obvious to add Kahl's "busy bar" program indicators as an overlay on the calendar dates to provide an indication of a program event scheduled for a specific time period. It would further have been obvious for the event indicators to have been correlated to "only" the first subset of events for the purpose of indicating the events after running a search (Boyer Fig. 21).

Regarding claim 51, Boyer discloses a method of receiving electronic program guide data and television content, the method comprising:

receiving electronic program guide data (program information via the Internet [Abstract]);

storing the received program guide data (downloading from web server 20 [Fig 1]); and

generating a first display screen based on the stored program guide data, the first display screen comprising a listing of media program representations and a calendar image displayed separate from and with the listing of media program representations [Fig 16], the calendar image including a plurality of dates and a selection indicator, the selection indicator movable within the calendar image, the selection indicator for selecting one of the plurality of dates on the calendar image [0103], ... the listing of media program representations representing a plurality of media programs that are being broadcast on the selected date and time [Figs 16-22];

wherein the listing of media program representations represents a first subset of the plurality of media programs obtained by a search of the plurality of the program guide data (Boyer, Figs 21, 22).

Boyer does not further disclose that the selection indicator is movable within dates on the calendar image to select a particular time, and the calendar image further includes a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which the first subset of the plurality, of media programs will be broadcast.

Kahl discloses a system for displaying events on a calendar image, the image containing a plurality of "busy bar" indicators, each indicator overlaid on one or more dates, thereby providing an indication of the dates corresponding to listed events [col. 2,

l. 59-67]. Multiple indicators are stacked in a single date so that a cursor is movable within the date to select the various indicators [col. 3, l. 1-5].

The particular use of a known technique to improve similar devices in the same way is considered to be obvious to one having ordinary skill in the art. Therefore it would have been obvious to add Kahl's "busy bar" program indicators as an overlay on the calendar dates to provide an indication of a program event scheduled for a specific time period. It would further have been obvious for the event indicators to have been correlated to "only" the first subset of events for the purpose of indicating the events after running a search (Boyer Fig. 21).

Regarding claims 31, 41, and 52, depending respectively on claims 30, 40, and 51, Boyer in view of Kahl further discloses:

wherein the calendar image includes dates for an entire month [Kahl Fig 2].

Regarding claims 32, 42, and 53, depending respectively on claims 30, 40, and 51, Boyer in view of Kahl further discloses:

a date region separate from and adjacent to the calendar image, the date region including therein a representation of a calendar date that changes as the selection indicator is moved from date to date within the calendar image ("December 1989" changes as dates are moved across months or years [Kahl Fig 2]).

Regarding claims 34, 44, and 55, depending respectively on claims 30, 40, and 51, Boyer in view of Kahl further discloses:

further comprising a title region separate from and adjacent to the calendar image, the title region including therein a title or categorical description of the listing of media program representations ("December 1989" is a title or categorical description [Kahl Fig 2]), the title or categorical description changing when the selection indicator is moved from the current date and time within the calendar image (as dates are moved across months or years [Kahl Fig 2]).

Regarding claims 37, 47, and 58, depending respectively on claims 30, 40, and 51, Boyer in view of Kahl does not further disclose:

wherein the calendar image is expandable by user command

Applicant's admission of fact (see "Response to Arguments") provides evidence that the method of resizing images by user command for a graphical user interface was well known in the art.

Therefore it would have been obvious to one of ordinary skill in the art to make an image such as the calendar image of Boyer in view of Kahl resizable and thus expandable for the purpose of providing to the user the ability to resize or expand an image as needed.

Claims 36, 46, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), further in view of Brown (US 4216596).

Regarding claims 36, 46, and 57 depending respectively on claims 30, 40, and 51, Boyer in view of Kahl further discloses that "certain dates within the calendar image" are blank thereby "highlighting other dates within the calendar image" (dates outside of the selected month are blank [Kahl Fig 2]).

Boyer in view of Kahl does not specifically disclose a mask overlay that blanks the dates.

Brown discloses that it is well known to use a mask to blank calendar days (covering up the days beyond the days of the current month [col. 2, l. 16-23]).

Therefore it would have been obvious to one of ordinary skill in the art to modify the calendar with the teaching of Brown's calendar because the method of using a mask to overlay certain dates in order to highlight other dates was well known to produce the predictable result of blanking certain dates.

Claims 38, 39, 49, 50, 60, and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), further in view of Green (US 6192346).

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Regarding claims 39, 50, and 61, depending respectively on claims 30, 48, and 59, Boyer in view of Kahl does not contemplate using different colored program indicators to indicate different concentrations of media programs. However, Kahl teaches displaying program indicators differently based on different concentrations of events by staggering "busy bar" indicators to indicate overlapping of events.

Green teaches coloring calendar days using different colors to indicate different conditions.

One of ordinary skill would have been able to adapt the teaching of Green to modify the "busy bar" indicators to use colors to indicate overlapping events instead of staggering, for the purpose of more easily indicating an overlapping condition to the user.

Regarding claims 38, 49, and 60, Boyer in view of Kahl in view of Green (as combined for the previous rejection) discloses using different shades in conjunction with using different colors (different colors appear using different shades [Green Fig 7]).

Claims 33, 35, 43, 45, 54, 56, 62-67, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), further in view of Lemmons (US 2004/0216160).

Regarding claim 62, Boyer discloses a system for transmitting and receiving electronic program guide data and television audio and video signals, the system comprising:

a combiner for combining the program guide data and the television audio and video signals into an output data stream (media and data are combined in transmission server 16 [Fig 1] [0051];

a transmitter ... (transmission server [Fig 1]) ;

a plurality of receivers [Fig 1], each receiver receiving the output data stream, identifying the program guide data from the output data stream, and storing the identified program guide data; and

display means for generating a first display screen based on the stored program guide data [Fig 16], the first display screen comprising a listing of media program representations and a calendar image displayed separate from and with the listing of media program representations [Fig 16], the calendar image including plurality of dates and a selection indicator, the selection indicator movable within the calendar image for selecting one of the plurality of dates on the calendar image [0103] ... , the listing of media program representations presenting a plurality of media programs that are being broadcast on the selected date and time [Figs 16-22];

wherein the listing of media program representations represents a first subset of the plurality of media programs obtained by a search of the plurality of the program guide data (Boyer, Figs 21, 22).

Boyer does not further disclose that the selection indicator is movable within dates on the calendar image to select a particular time, and the calendar image further includes a plurality of program indicators, each program indicator being overlaid on one or more of the plurality of dates, thereby providing an indication of the dates on which the first subset of the plurality, of media programs will be broadcast.

Kahl discloses a system for displaying events on a calendar image, the image containing a plurality of "busy bar" indicators, each indicator overlaid on one or more dates, thereby providing an indication of the dates corresponding to listed events [col. 2, l. 59-67]. Multiple indicators are stacked in a single date so that a cursor is movable within the date to select the various indicators [col. 3, l. 1-5].

The particular use of a known technique to improve similar devices in the same way is considered to be obvious to one having ordinary skill in the art. Therefore it would have been obvious to add Kahl's "busy bar" program indicators as an overlay on the calendar dates to provide an indication of a program event scheduled for a specific time period. It would further have been obvious for the event indicators to have been correlated to "only" the first subset of events for the purpose of indicating the events after running a search (Boyer Fig. 21).

Boyer in view of Kahl does not disclose that the transmitter broadcasts the signal as claimed.

Lemmons discloses that a program guide and calendar may be broadcast to a user, for example by a satellite [Fig 1].

It would have been obvious to have broadcasted the program guide and calendar from a television broadcast site for the purpose of not requiring an Internet connection at the set top box.

Regarding claims 33, 43, 54, and 65, depending respectively on claims 30, 40, 51, and 62, Boyer in view of Kahl does not further disclose a time region as claimed.

Lemmons discloses a program guide calendar comprising:

a time region separate from and adjacent to the calendar image (time region 304 [Fig 8]), the time region including therein a representation of a time of day that changes as the selection indicator is moved upward and downward within a particular date on the calendar image (the up and down button is used to move between the time regions [0095]).

It would have been obvious to use Time-to-View indicators with the calendar of Boyer in view of Kahl for the purpose of indicating the time range of the selected "busy bar" indicator.

Regarding claims 35, 45, 56, and 67, depending respectively on claims 30, 40, 51, and 62, Boyer in view of Kahl does not further disclose a data range indicator as claimed.

Lemmons discloses a calendar comprising:

a data range indicator that provides an indication on the calendar image of the dates for which program guide information is available (heavy borders indicate a memory contains program schedule information for that day [0091]).

It would have been obvious to have used Lemmons' data range indicator for the purpose of indicating which days have associated program information.

Regarding claim 63, depending on claim 62, Boyer in view of Kahl and Lemmons further discloses:

wherein the calendar image includes dates for an entire month [Kahl Fig 2].

Regarding claim 64, depending on claim 62, Boyer in view of Kahl and Lemmons further discloses:

a date region separate from and adjacent to the calendar image, the date region including therein a representation of a calendar date that changes as the selection indicator is moved from date to date within the calendar image ("December 1989" changes as dates are moved across months or years [Kahl Fig 2]).

Regarding claim 66, depending on claim 62, Boyer in view of Kahl and Lemmons further discloses:

further comprising a title region separate from and adjacent to the calendar image, the title region including therein a title or categorical description of the listing of media program representations ("December 1989" is a title or categorical description

[Kahl Fig 2]), the title or categorical description changing when the selection indicator is moved from the current date and time within the calendar image (as dates are moved across months or years [Kahl Fig 2]).

Regarding claim 69, depending on claim 62, Boyer in view of Kahl and Lemmons does not further disclose:

wherein the calendar image is expandable by user command

Applicant's admission of fact (see "Response to Arguments") provides evidence that the method of resizing images by user command for a graphical user interface was well known in the art.

Therefore it would have been obvious to one of ordinary skill in the art to make an image such as the calendar image of Boyer in view of Kahl resizable and thus expandable for the purpose of providing to the user the ability to resize or expand an image as needed.

Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), Lemmons (US 2004/0216160), and Brown (US 4216596).

Regarding claim 68, depending on claim 62, Boyer in view of Kahl and Lemmons further discloses that "certain dates within the calendar image" are blank thereby

"highlighting other dates within the calendar image" (dates outside of the selected month are blank [Lemmons Fig 8] [Kahl Fig 2]).

Boyer in view of Kahl and Lemmons does not specifically disclose a mask overlay that blanks the dates.

Brown discloses that it is well known to use a mask to blank calendar days (covering up the days beyond the days of the current month [col. 2, l. 16-23]).

Therefore it would have been obvious to one of ordinary skill in the art to modify the calendar with the teaching of Brown's calendar because the method of using a mask to overlay certain dates in order to highlight other dates was well known to produce the predictable result of blanking certain dates.

Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyer (US 2006/0253869) in view of Kahl (US 5936625), Lemmons (US 2004/0216160), and Green (US 6192346).

Regarding claim 71, depending on claim 70, Boyer in view of Kahl and Lemmons does not contemplate using different shades to indicate different concentrations of media programs. However, Kahl teaches displaying program indicators differently based on different concentrations of events by staggering "busy bar" indicators to indicate overlapping of events.

Green teaches coloring calendar days using different colors/shades to indicate different conditions (Fig. 7).

One of ordinary skill would have been able to adapt the teaching of Green to modify the "busy bar" indicators to use shades to indicate overlapping events instead of staggering, for the purpose of more easily indicating an overlapping condition to the user.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bennett Ingvaldstad whose telephone number is (571)270-3431. The examiner can normally be reached on M-F 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Beliveau can be reached on (571) 272-7343. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bennett Ingvaldstad/
Examiner, Art Unit 2427

/Scott Beliveau/
Supervisory Patent Examiner, Art Unit 2427